

House File 2345

S-5117

1 Amend House File 2345, as passed by the House, as
2 follows:

3 1. Page 1, after line 6 by inserting:

4 <Sec. _____. Section 598.41, subsection 5, paragraph
5 a, Code 2011, is amended to read as follows:

6 a. (1) If joint legal custody is awarded to both
7 parents, the court may award joint physical care
8 to both joint custodial parents upon the request of
9 either parent during the proceedings on the initial
10 dissolution petition or during the proceedings on
11 a modification of the original custody order. A
12 rebuttable presumption exists that a request for
13 joint physical care by either parent is in the best
14 interest of the child. The burden of proof to rebut
15 the presumption rests on the party denying that joint
16 physical care is in the best interest of the child, and
17 such party shall demonstrate that joint physical care
18 is not in the best interest of the child by clear and
19 convincing evidence.

20 (2) Prior to ruling on the request for the award
21 of joint physical care, the court may require the
22 parents to submit, either individually or jointly,
23 a proposed joint physical care parenting plan. A
24 proposed joint physical care parenting plan shall
25 address how the parents will make decisions affecting
26 the child, how the parents will provide a home for the
27 child, how the child's time will be divided between
28 the parents and how each parent will facilitate the
29 child's time with the other parent, arrangements in
30 addition to court-ordered child support for the child's
31 expenses, how the parents will resolve major changes
32 or disagreements affecting the child including changes
33 that arise due to the child's age and developmental
34 needs, and any other issues the court may require.

35 (3) If the court finds by clear and convincing
36 evidence that joint physical care is not in the best
37 interest of the child and denies the request for joint
38 physical care, the determination shall be accompanied
39 by specific findings of fact and conclusions of law
40 that the awarding of joint physical care is not in
41 the best interest of the child. In determining the
42 best interest of the child relative to the denial of
43 a request for joint physical care, the court shall
44 consider that the best interest of the child includes
45 the opportunity for the maximum continuous physical and
46 emotional contact possible with both parents, unless
47 direct physical or significant emotional harm to the
48 child may result from such contact.>

49 2. By renumbering as necessary.

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